

Decision No. C02-458

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 01B-493T

RE: THE APPLICATION FOR APPROVAL OF INTERCONNECTION AGREEMENT
BETWEEN QWEST CORPORATION AND RUBY RANCH INTERNET COOPERATIVE
ASSOCIATION.

DECISION GRANTING APPLICATION FOR APPROVAL
OF INTERCONNECTION AGREEMENT

Mailed Date: April 26, 2002
Adopted Date: April 24, 2002

I. BY THE COMMISSION:

A. Statement

1. This matter comes before the Colorado Public Utilities Commission ("Commission") for consideration of the Joint Application ("Application") for Approval of an Arbitrated Interconnection Agreement filed by Qwest Corporation ("Qwest"), and Ruby Ranch Internet Cooperative Association ("Ruby Ranch") on April 1, 2002. The Application seeks approval of the parties' Interconnection Agreement ("Agreement") for the provision of Qwest's local exchange services. The Application is filed pursuant to the Commission's Rules Establishing Procedures Relating to the Submission for Approval of Interconnection Agreements, and any Amendments to Interconnection Agreements within Colorado by Telecommunications

Carriers, 4 Code of Colorado Regulations ("CCR") 723-44 ("Interconnection Agreement Rules"). As part of their Application, Qwest and Ruby Ranch attached their Agreement.

2. Pursuant to 4 CCR 723-44-5.6 of the Interconnection Agreement Rules, notice of the submitted Application was given to the public. Interested persons were given an opportunity to file comments within ten days of the notice. No comments were filed with the Commission. Likewise, no person has sought to intervene in this matter.

3. Now being duly advised in the premises, we grant the Application, subject to the requirements of this Order.

B. Background

1. The Application and Agreement were submitted following arbitration between Qwest and Ruby Ranch pursuant to 47 U.S.C. § 252(b) and 4 CCR 723-46. Only a portion of the rates included in Exhibit A to the Agreement have been previously approved by the Commission in Docket No. 96S-331T, as modified by subsequent Advice Letter filings. The underlying Agreement is one of the working versions of the Statement of Generally Accepted Terms and Conditions ("SGAT") in Docket No. 97I-198T from the § 271 proceedings. The entire SGAT, including rates, is currently being reviewed in the 99A-577T proceeding. The requirements of Rule 44 have been included in the Application.

2. Pursuant to 4 CCR 723-44-5.7.3, the Commission shall approve or reject this Arbitrated Interconnection Agreement within 30 days after its submission by the parties; otherwise the Agreement shall be deemed approved.

3. In deciding whether to approve or reject the Agreement, the Commission follows the Interconnection Agreement Rules. Those rules were promulgated to implement certain directives set forth in the Telecommunications Act of 1996 ("Act"), 47 U.S.C. § 251 *et seq.*

4. The Act sets forth the procedures for negotiation, arbitration, and approval of interconnection agreements between telecommunications providers. Notably, 47 U.S.C. §§ 252(a) and (e) mandate that all interconnection agreements between providers shall be submitted to the State commission (e.g., the Colorado Public Utilities Commission) for review. The State commission may approve or reject any submitted agreement in accordance with the standards listed in 47 U.S.C. § 252(e)(2)(A) (commission may reject an agreement adopted by negotiation if it discriminates against a telecommunications carrier not a party to the agreement or if the implementation of such agreement is not consistent with the public interest, convenience, and necessity) or 47 U.S.C. § 252(e)(2)(B) (commission may reject an agreement adopted by arbitration if it does not meet the requirements of 47 U.S.C.

§ 251, including the federal regulations prescribed pursuant to 47 U.S.C. § 251, or if the agreement does not meet the pricing standards set forth in 47 U.S.C. § 252(d)).

5. In pertinent part, 47 U.S.C. § 251 and the regulations promulgated by the Federal Communications Commission ("FCC") require telecommunications carriers to interconnect their facilities and equipment. 47 U.S.C. § 251(a). The Act further imposes upon all local exchange carriers duties concerning resale, number portability, dialing parity, access to rights-of-way, and reciprocal compensation. 47 U.S.C. § 251(b). Additionally, the Act obligates incumbent local exchange carriers to negotiate in good faith the particular terms and conditions of interconnection agreements for the transmission and routing of telephone exchange service and exchange access. 47 U.S.C. § 251(c). The FCC's regulations implementing 47 U.S.C. § 251 are codified at 47 C.F.R. pt. 51.

6. Section 47 U.S.C. § 252(d) addresses pricing standards. In order to comply with this section, rates for interconnection and network elements must be just and reasonable, nondiscriminatory, and based on the cost of providing the interconnection or network element. This section also deals with charges for the transportation and termination of traffic and with wholesale prices for telecommunications services.

7. Since 47 U.S.C. § 252(e) compels State commissions to review interconnection agreements between telecommunications carriers, the Commission adopted the Interconnection Agreement Rules to establish the procedures for Commission review and approval of all interconnection agreements entered into between telecommunications carriers.

8. Under the 47 U.S.C. § 252(i) "pick and choose" provision of the Act, Ruby Ranch may at some future date opt-into the rates, terms, and conditions of the Commission approved SGAT.

C. Findings

1. Rule 4 CCR 723-44-5.7.2.2 of the Interconnection Agreement Rules provides that the Commission may reject a submitted interconnection agreement entered into by arbitration only if:

- (1) The agreement or amendment, or portion thereof, does not meet the requirements of 47 U.S.C. 251 including the regulations prescribed by the FCC pursuant to Section 251; or
- (2) The agreement or amendment, or portion thereof, does not meet the requirements of 47 U.S.C. 251(d); or
- (3) The agreement or amendment is not in compliance with intrastate telecommunications service quality standards or requirements.

Accord 47 U.S.C. § 252(e)(2)(B). In light of the requirements of Rule 4 CCR 723-44-5.7.2.2, we find that the Agreement should

be approved, and, therefore, that the Application should be granted.

2. The Agreement addresses all pertinent provisions of 47 U.S.C. § 251. With respect to 47 U.S.C. § 252(d), costing and pricing issues are governed by the Agreement which incorporates by reference interim and final orders of the Commission, including allowances for modifications as a result of Commission decisions in Docket No. 96S-331T. In Decision No. C02-440, the Commission made a final ruling on Ruby Ranch's Petition for Arbitration regarding the present Agreement and clarified various rates for the Agreement. Specifically, the Commission approved a \$59.88 rate for subloop activation, a monthly recurring subloop charge of \$15.84, and a quote preparation fee based on an averaging of estimated costs for various types of field connection points. All three of these rates are explicitly based on those approved in Decision No. C02-409 in Docket No. 99A-577T. We reiterate our determination in Decision No. C02-440 and order that within ten days after the effective date of this order Qwest and Ruby Ranch shall amend their Interconnection Agreement to reflect the rates approved in Decision No. C02-440 in this docket, and Decision No. C02-409 in Docket No. 99A-577T. Approval of the Agreement is expressly conditioned upon compliance with this requirement.

D. Conclusion

Based upon the record in the present proceeding and the standards for review of interconnection agreements as set forth in the Interconnection Agreement Rules, we conclude that the Application should be granted and that the Agreement between Qwest and Ruby Ranch should be approved, subject to the parties' amendments to the Agreement, as set forth above.

II. ORDER

A. The Commission Orders That:

1. The Joint Application filed by Qwest Corporation and Ruby Ranch Internet Cooperative Association on April 1, 2002, which Application incorporated their Interconnection Agreement, is granted on the condition that the parties file amendments consistent with the above discussions.

2. Within ten days after the effective date of this Order, Qwest Corporation and Ruby Ranch Internet Cooperative Association shall file with the Commission an amendment to their Interconnection Agreement to reflect the rates approved in Decision No. C02-440 in this docket, and Decision No. C02-409 in Docket No. 99A-577T.

3. If the requirements of ordering paragraph 2 are not met within ten days, the approval herein granted shall be void.

4. This Order is effective on its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 24, 2002.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



POLLY PAGE

JIM DYER

Commissioners

ATTEST: A TRUE COPY

Bruce N. Smith

Bruce N. Smith
Director

CHAIRMAN RAYMOND L. GIFFORD
ABSENT.